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|  | JUSTICE CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES | REFERENCES: 505 KAR 1:140 3-JDF-3C-10, 3C-12, 3C-13 |
| CHAPTER: Detention Services | | AUTHORITY: KRS 15A.065 |
| SUBJECT: Disciplinary Review | | |
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| APPROVAL: Bridget Skaggs Brown | , COMMISSIONER | |

I. POLICY

Due process rights shall be protected when there exists evidence or allegations that a youth has committed a Major Rule Violation.

II. APPLICABILITY

This policy shall apply to all state-operated detention centers.

III. DEFINITIONS

- A. "Disciplinary Review" means a non-judicial administrative procedure to determine if grounds exist to substantiate activity or privilege restriction or Room Confinement.
- B. "Disciplinary Review Committee" means staff empowered to conduct a Disciplinary Review.
- C. "Major Rule Violation" means a rule infraction involving a grievous loss and requiring imposition of due process procedures. Major Rule Violations include (1) violations that may result in disciplinary detention or isolation; (2) violations for which punishment may tend to increase a Youthful Offender's sentence or that may result in a forfeiture, such as loss of good-time; and (3) violations that may be referred for criminal prosecution. Major Rule Violations shall include Escape (Reference DJJPP 712), AWOL (Reference DJJPP 712), physical or sexual assault or threat of physical or sexual assault, major property destruction, possession of contraband, and chronic program disruption.

IV. PROCEDURES

- A. A youth charged with a Major Rule Violation shall have the right to Disciplinary Review.
- B. The youth shall be given copy of the Incident/Disciplinary Report within 24 hours of the infraction. The youth may indicate on the Incident/Disciplinary

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Report whether he chooses to request Disciplinary Review or to waive his right to this process. The youth shall receive written notice of the review date and time at least 24 hours in advance of the review.

- C. Should the youth choose not to request Disciplinary Review, the sanctions imposed shall be upheld with no further action.
- D. The person conducting the Disciplinary Review shall be an impartial staff, i.e. the Assistant Superintendent or designee.
- E. The Disciplinary Review may be held within 24 hours of the infraction with the youth's consent but shall be held no later than seven (7) days, excluding weekends and holidays, of the alleged violation. Should the review be prevented by exceptional circumstances, unavoidable delays, or reasonable postponement, reason for all delays shall be documented.
- F. Youth shall have the right to be present at their review unless they waive that right in writing or through their behavior. The youth may be excluded during testimony given in confidence. The reason for any absence or exclusion of the youth shall be documented.
- G. Youth shall have the opportunity to make statements, present documentation, and call witnesses in defense of the allegations made against them, except when doing so may jeopardize the life and safety of persons or the security and order of the facility. The reason for any such denial shall be documented.
- H. Youth shall be able to have an **on-duty** staff member represent them at the Disciplinary Review.
- I. The Disciplinary Review Committee may take any of the following actions based upon the evidence:
 - 1. Find that the youth did not commit the offense in which case the Committee shall order that the Incident/Disciplinary Report be removed from the youth's Individual Client Record.
 - 2. Find that the youth did commit the offense in which case the Committee can uphold the initial sanction(s) placed upon the youth or order sanctions which fall into the scope of the facility policies on rule infractions and penalties.
- J. The Superintendent or designee shall review and approve by signature all Disciplinary Review Committee Record Forms to assure conformity with policy and regulations. The original of the Incident/Disciplinary Report and the Disciplinary Review Committee Record Form shall be placed in the youth's Individual Client Record and copy given to the youth. If personal safety or security is jeopardized by certain references on the Disciplinary Review Committee Record Form, they may be deleted from the youth's copy but the fact that omissions have been made shall be noted on the copy.
- K. Youth shall have the right to appeal the decision of the Disciplinary Review to the Superintendent. The youth shall be informed of his right to have fifteen (15) days to appeal the decision of the Disciplinary Review Committee.

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L. Procedures for Appeal of Disciplinary Review Committee Decision:

1. Youth shall have up to fifteen (15) days after receipt of the decision to submit an appeal.
2. The Superintendent shall affirm or reverse the decision of the Disciplinary Review Committee within thirty (30) days after receipt of the appeal by completing the Administrative Appeal Form. The youth shall be promptly notified in writing of the results by receipt of copy of the Administrative Appeal Form.
3. If, upon appeal, the Superintendent reverses the Disciplinary Review Committee's decision and finds that the youth is not responsible for any or all of the alleged rule infraction(s), consequences shall be ordered lifted or adjusted accordingly. The Incident/Disciplinary Report shall be removed from the youth's file if the Superintendent finds that the youth is not responsible for the alleged rule violation(s).

M. If it is determined that an offense petition shall be filed, the Disciplinary Review process shall be suspended until the criminal prosecution is complete.

V. MONITORING MECHANISM

The Superintendent or designee shall be responsible to monitor these activities. The Division of Program Services shall conduct, at minimum, annual program audits.